MDR Tracking Number: M5-04-3481-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution –General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-11-04.

CPT code A9150 for date of service 9-25-03 was withdrawn by the requestor in a letter dated 11-17-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that therapeutic exercises, aquatic therapy, manual therapy, therapeutic activities, manual muscle testing w/report, range of motion, physical performance test, analysis of clinical data -stored and miscellaneous durable medical equipment from 6-12-03 through 11-25-03 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity was not the only issue involved in the medical dispute to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 7-19-04 the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

- CPT Code 99090 for date of service 6-25-03 was denied as an N – not documented. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted additional relevant information to support delivery of service. Rule 133.304(c) At the time an insurance carrier makes payment or denies payment on a medical bill, the insurance carrier shall send, in the form and manner prescribed by the Commission, the explanation of benefits to the appropriate parties. The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section. Therefore, **reimbursement is recommended in the amount of $108.00** in accordance with the 1996 Medical Fee Guidelines.

- CPT Code 97140 for dates of service 9-23-03 and 9-30-03 was denied with no code at all. Per Rule 133.304(c): The insurance carrier must provide correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason for the insurance carrier's actions. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service. Therefore, **reimbursement is recommended in the amount of $67.80 (33.90. x 2)** in accordance with the Medicare program reimbursement methodology per Commission Rule 134.202 (b).

- CPT Code 97530 for dates of service 9-16-03, 9-23-03, 9-25-03 and 9-30-03 was denied as a G – "Unbundled" denial code. Per rule 133.304 (c) the Carrier didn't specify which service this was global to, therefore it will be reviewed according Medical Fee Guidelines effective 8-1-03. **Recommend reimbursement of $144.92. ($36.23 x 4)**

- CPT Code 95851 for date of service 9-29-03: no denial code was given. Per Rule 133.304(c): The insurance carrier must provide correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason for the insurance carrier's actions. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service. **Recommend reimbursement of $34.51.**

- CPT Code 97750-MT for date of service 9-29-03 was denied as a G- Unbundling - denial code. Per rule 133.304 (c) the Carrier didn't specify which service this was global to, therefore it will be reviewed according Medical Fee Guidelines effective 8-1-03. **Recommend reimbursement of $136.69.**

- CPT Code 98940 for date of service 10-09-03 was denied with an R denial code. However, there is no relevant TWCC 21 on file. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted information to support delivery of service. This service will be reimbursed according to the Medical Fee Guidelines effective 8-1-03. **Recommend reimbursement of $32.84.**

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees for 6-25-03 through 10-9-03 as outlined above:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision and Order is hereby issued this 18th day of November 2004.

Donna Auby

Medical Dispute Resolution Officer
Medical Review Division

July 30, 2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3481-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The patient underwent extensive physical medicine, epidural steroid injections and cervical surgery after being hit by a van while at work on ___.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity from 6-12-2003 to 11-25-2003 for therapeutic exercises, aquatic therapy, manual therapy, therapeutic activities, manual muscle testing w/report, range of motion, physical performance test, analysis of clinical data stored and miscellaneous durable medical equipment.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

Physical medicine is an accepted part of a rehabilitation programs following an injury and/or surgery. However, for medical necessity to be established there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. General expectations include: (A) As time progresses, there should be an increase in the active regimen of care, a decrease in the passive regimen of care and a decline in the frequency of care. (B) Home care programs should be initiated near the beginning of care, include ongoing assessments of compliance and result in fading treatment frequency. (C) Patients should be formally assessed and re-assessed periodically to see if the patient is moving in a positive direction in order for the treatment to continue. (D) Supporting documentation for additional treatment must be furnished when exceptional factors or extenuating circumstances are present. (E) Evidence of objective functional improvement is essential to establish reasonableness and medical necessity of treatment

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. In this case, according to the treating doctor's daily note from 5-23-2003, the patient had already completed 10 weeks of active care before the treatment in question began. Therefore, expectation of functional restoration was not reasonable based on the prior lack of success. Since the treatment had already been attempted and failed, the patient was not likely to benefit in any meaningful way from repeating the same unsuccessful treatments.

Although 5 inches of medical records were submitted for review, no actual treatment records were supplied since the daily progress notes were computer generated, essentially verbatim from day to day. Therefore, there is not documentation to support the medical necessity for any of the treatment in question.

The records also fail to substantiate that the services fulfilled the requirements of Texas Labor Code 408-021 since the patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to employment. That is confirmed by the designated doctor (who carries presumptive weight) in his report of 6-02-2003 that states the patient is MMI, has not improved and has not returned to work. It is also confirmed by patient's pain rating that remained at either 4 or 5 during the entire period from 6-12-2003 to 11-25-2003.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,